IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.W.P. No. 7679 of 2007
Date of Decision: May 21, 2007

Rajesh Thakur ..... Petitioner

Versus

Prasar Bharti (Broadcasting Corporation of India),
New Delhi through its Chief Executive Officer
and others ..... Respondents

Coram: Hon'ble Mr. Justice Ashutosh Mohunta
Hon'ble Mr. Justice R.S. Madan

Present: Mr. G.S. Mann, Advocate
for the petitioner.

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ASHUTOSH MOHUNTA, J.

By means of this writ petition under Article 226 of the Constitution of India the petitioner, who was working as an Upper Division Clerk, has challenged the order Annexure P1 issued by respondent No.2 for imposing penal rent at the rate of Rs.8800/- per month with retrospective effect from 1.1.2007 in respect of quarter No. C-10, Radio Colony, Sector 42-A, Chandigarh, which was allotted to the petitioner in the year 1996.

It is the case of the petitioner that earlier on 8/12.9.2000 respondent No.2 issued an order-Annexure P2 for vacation of the aforesaid quarter which was challenged in the Civil Court in a civil suit. It was in the month of May 2001 that the respondent has started deducting the penal rent at the rate of Rs.3640/- per month from the salary of the petitioner despite the fact that the matter was subjudiced before the Civil Court. On 9.12.2006 the order of vacation was declared null and void and suit of the plaintiff was decreed. The petitioner approached respondent No.2 with a copy of the judgment and decree passed by the Civil Court and requested the respondent to stop the deduction of penal rent and to refund the recoveries already made. The respondent did not file any appeal against the said order which attained finality.

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It was on 23.3.2007 that respondent No.2 issued a notice under Section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act,1971 to the petitioner asking him to vacate the premises. The petitioner submitted a reply to the said notice on 2.4.2007 and the matter was informally compromised that the petitioner would submit a formal vacation report (without actual vacation) to respondent No.2 and respondent No.2 would issue a fresh order of allotment on regular basis to the petitioner. The said reply remained unresponded. The petitioner served a legal notice (Annexure P8) to the respondent with a request to honor the informal compromise arrived at between them and to re-allot Quarter No.C-10, Radio Colony, Sector 42-A, Chandigarh, to the petitioner on regular basis.

Now the petitioner has sought the indulgence of this Court on the ground that respondent No.2 has not issued the formal letter on regular basis despite the reply submitted by the petitioner about its formal vacation of Quarter No.C-10, Radio Colony, Sector 42-A, Chandigarh.

We have gone through the various Annexures and the latest show cause notice issued to the petitioner under Section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 as well as the reply furnished by the petitioner and are of the considered view that since the matter is not disposed of by the competent authority, the writ petition is filed pre-maturely.

In view of the above, without expressing any opinion on the merits of the case, we dispose of this writ petition with a direction to respondent No.2 to deal with the reply of the petitioner in accordance with law.

(ASHUTOSH MOHUNTA)
JUDGE

21.5.2007 **(R.S.MADAN)**
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